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THE WHITE HOUSE

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MESSAGE NO. 1238 CLASSIFICATION UNCLASSIFIED PAGES 4FROM DAVID S. ADDINGTON x2230 West Wing
(NAME) (EXTENSION) (ROOM NUMBER)MESSAGE DESCRIPTION Final SAP on Drug Bill

TO (AGENCY)

DELIVER TO:

DEPT/ROOM NO.

EXTENSION

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REMARKS

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STATEMENT OF ADMINISTRATION POLICY

September 7, 1988
(House)

H.R. 5210 - Omnibus Drug Initiative Act of 1988
(Foley (D) Washington and Michel (R) Illinois)

The Administration strongly supports and urges Congress to act swiftly to adopt effective and responsible legislation to combat drug abuse. Such legislation should be designed to achieve the six major goals the President outlined in 1986: (1) drug-free workplaces, (2) drug-free schools, (3) expanded treatment for drug users, (4) strengthened drug law enforcement, (5) increased international narcotics cooperation, and (6) increased public awareness and prevention.

The President has approved comprehensive policy guidance developed by the National Drug Policy Board to focus legislative efforts on the users of illegal drugs, enhanced treatment, increased international cooperation, improved tracking of demand and supply reduction activities, and heightened drug abuse awareness and prevention.

On May 18, 1988, the President called for a bipartisan Executive-Legislative Task Force on Drugs to develop a comprehensive legislative package. The President and the Senate and House Republican Leaders have appointed their representatives to the Task Force. The Administration urges the Senate and House Majority Leadership to appoint their representatives so that the Task Force can fashion final anti-drug legislation that will be mutually acceptable and can be enacted soon.

The Administration urges Congress to ensure that funding in anti-drug legislation is consistent with the Bipartisan Budget Agreement reached last November by the President and the Bipartisan Joint Leadership of the Congress. The Administration urges the Congress to enact responsible anti-drug legislation that is consistent with the achievement of both a drug-free America and a reduced Federal budget deficit. The Administration will work with the Congress to identify necessary offsets to ensure that anti-drug legislation complies fully with the Bipartisan Budget Agreement.

In addition to enacting effective new drug legislation, the Congress should fully fund the President's FY 1989 budget request for programs to combat illegal drugs. Cuts in the President's anti-drug budget, such as those imposed by the Congress during its consideration of the fiscal year 1989 Commerce-Justice-State Appropriations bill, would damage the capability of the U.S. Government to fight illegal drugs.

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H.R. 5210 AS INTRODUCED

With respect to the bill as introduced, the Administration does not support provisions that would shift grant authorities from block grants back to restrictive categorical grants; attach conditions to Federal grants that are unrelated to the purposes of the grants; detract from the Administration's zero tolerance policy; and establish highly prescriptive and burdensome requirements for certification of private laboratories. With respect to certification of private laboratories, the Bliley Amendment is preferable to the provisions in the bill.

The Administration strongly opposes provisions in Section 8010 of the bill that purport to require the Federal Aviation Administration (FAA) to transmit budget and legislative proposals to Congress without prior review by the Department of Transportation, the Office of Management and Budget, or the President. Those provisions conflict with the President's Executive authority. Similarly, the Administration strongly opposes exempting FAA information collection requests necessary to carry out Section 8010 from Office of Management and Budget review. Such review under the Paperwork Reduction Act is an essential tool in ensuring that American citizens are not unnecessarily burdened with Federal paperwork to meet information requirements that could be more effectively satisfied in a different fashion.

The Administration views as premature the provisions of the bill concerning access to records relating to Human Immunodeficiency Virus testing and counseling. Any such legislation should not impair effective State public health policy and practice. The Administration is conducting an expedited review of the matter.

AMENDMENTS TO H.R. 5210

The Administration particularly supports adoption of three reforms the President has sought throughout his Administration:

- procedures for imposition of the death penalty in appropriate serious cases (Gekas Amendment);
- reform of the court-made exclusionary rule that prevents in certain circumstances the use in court of evidence gathered in good faith by the police (Lungren Amendment); and
- reform of the procedures by which the Federal courts review the incarceration of convicts through use of the writ of habeas corpus.

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The Administration particularly opposes the following specific amendments proposed to be offered to H.R. 5210:

- The Levin Amendment and the Edwards (CA) Amendment or Amendments that inappropriately restrict the imposition of the death penalty for which the Gekas Amendment would provide.
- The Conyers Amendment that creates a new entitlement to Federal tax dollars for criminal defendants in capital cases, entitling them to Federally-paid investigative, expert, and other services, and lawyers who have practiced law for 5 years with 3 years of experience in felony trials. Federal law already provides for appropriate representation to implement the right of criminal defendants to the assistance of counsel.
- The Ortiz Amendment that makes unnecessary changes in current law concerning use of the Justice Assets Forfeiture Fund, reducing existing, needed flexibility.
- The Pepper Amendment that mandates that the Federal Government provide funds for Dade County and Miami Beach, Florida for demonstration programs, rather than requiring those local governments to compete for Federal assistance on the same basis as other narcotics-distressed localities.
- The Studds Amendment that prohibits forfeiture of a vessel, vehicle or aircraft involved in a drug-related offense in certain circumstances, a serious and unwarranted retreat from the policy of zero-tolerance for illegal drugs.
- The Davis (MI) Amendment (relating to vessel identification) that is technically flawed and raises serious questions about the scope and comprehensiveness of the proposed vessel identification system.
- The Johnson or Dorgan Amendment that provides for grants to States for certain anti-drunk driving measures, which largely duplicates an existing grant program.
- The Anderson Amendment that authorizes an inappropriate new program of grants to States that adopt certain drug programs.

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- The Alexander Amendment that generally grants access on demand for the General Accounting Office and any congressional committee to sensitive intelligence, law enforcement and other information concerning illegal foreign drug activities, seriously disrupting effective arrangements for the collection and dissemination of drug-related foreign intelligence and conflicting with the constitutional authorities of the President.

The Administration believes that a decision should not be made on whether to establish a single officer with government-wide authority over Federal assets deployed by the various agencies to combat illegal drugs, often called a "drug czar," until the incoming President takes office and makes his recommendations to the Congress.

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